**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH**
**AT HYDERABAD**
(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
**THE HON'BLE MR JUSTICE S.ANANDA REDDY**
**WRIT PETITION NO : 3832 of 1997**

Between:
The Depot Manager APSRTC
BHEL Depot, Medak District.

..... PETITIONER

AND

1 SRI R.Y.Rao S/o.R.N.K.Rao
E.110030 Ex-Conductor, C/o.B.Ramakrishna, Advocate
4-2-691, Near CBS, Ramamandir Road, Gowliguda
Hyderabad.
2 The Labour Court-II rep. by its Presiding Officer
Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of certiorari and call for the records relating to and in connection with Award dt:8-7-96 passed in I.D.No.120/94 on the file of the Labour Court-II, Hyderabad and quash the same including the consequential G.O.Rt.No:3232 dt:
19-11-96.

**Counsel for the Petitioner:MR.V.T.M. PRASAD, S.C. FOR A.P.S.R.T.C**

**Counsel for the Respondent No.1: MR.SARIKONDA RAMAKRISHNA**

**The Court made the following ORDER:**

This writ petition is filed by the Corporation aggrieved by the Award passed by the Labour Court-II, Hyderabad, in I.D.No.120 of 1994 dated 08.07.1996, which was published in G.O.Rt.No.3232 dated 19.11.1996.

2. The first respondent, who is a workman, was appointed as Conductor in the petitioner-Corporation in the year 1986. On 22.10.1992 while he was conducting the Bus bearing No.AEZ 2123 on route from Patancheruvu to Lakudaram, a check was conducted by the Checking Officials at stage No.12 at about 10.30 hours and found that the first respondent had committed cash and ticket irregularities. Therefore, the first respondent was charged with the charge memo. After receiving the explanation, an Enquiry Officer was appointed. The Enquiry Officer submitted his report after conducting an enquiry and according to which the charges were found against the first respondent. Thereafter, the petitioner, who is the disciplinary authority, passed orders of removal of the first respondent on 16.06.1993. The first respondent was unsuccessful in Appeal and moved the Labour Court by raising an Industrial dispute. The said dispute was registered as I.D.No.120 of 1994.

3. The Labour Court, after considering the material placed before it, confirmed the finding of the Enquiry Officer as to the misconduct with reference to the charges. But, however, while considering the proportionality of the punishment, the Tribunal held that the punishment of removal from service is disproportionate one and not commensurate with the gravity of the charges, taking into account the nature of the misconduct and also the amount involved in the said offence, and therefore, set aside the order of removal, ordering reinstatement with

continuity of service with all attendant benefits including 50% of back wages. Aggrieved by that, the petitioner –Corporation has come up with the present writ petition.

4. The learned Standing Counsel for the Corporation contended that the Labour Court has committed grave error in not only ordering reinstatement, by setting aside the order of removal, but also awarding 50% of the back wages. It is contended that when once the charges are found against the workman, especially when the misconduct said to have been alleged relates to the cash and ticket irregularities, it is not proper and just on the part of the Labour Court to order not only reinstatement but also with other attendant benefits, including 50% of the back wages. Therefore, sought to set aside the order of the award of the Labour Court.

5. The learned counsel appearing for the first respondent, on the other hand, sought to sustain the order. He also contended that the Labour Court relied upon a decision reported in **The Milk Products Factory, A.P. Dairy Development Corporation Ltd., Vijayawada v. V.K. Durga Rao and another**[1] and accordingly set aside the order of removal while ordering the reinstatement with other benefits. As the Labour Court has passed the order after considering the material on record in terms of Section 11-A of the Industrial Disputes Act, 1947 (for short 'the Act'), there is no scope for this Court to interfere with the said award of the Labour Court.

6. Heard both sides and considered the material available on record.

7. The issue that has to be considered in this writ petition is whether the Award of the Labour Court is proper, just and does not call for any interference.

8. The first respondent–workman was charged with cash and ticket irregularities and the Enquiry Officer, who was appointed to enquire into the charges, found that the charges were proved against the workman. Even when the said findings are assailed before the Labour

Court, the Labour Court also agreed with the findings of the Enquiry Officer. But, however, while considering the proportionality of the punishment with reference to the alleged misconduct, the Tribunal not only set aside the order of removal but, granted the relief more than to which the workmen is entitled to. In fact, the relief granted by the Labour Court shows that for the misconduct committed by the first respondent, he was awarded a bonus of back wages to the extent of 50%. The first respondent was charged with cash and ticket irregularities as per which, he has collected the fare from the passengers and did not issue the tickets and closed the S.R showing as if there were no other passengers, who were to be issued with the tickets, which clearly shows that the workman had the intention of misappropriating the fares collected from the passengers. In such circumstances, granting of reinstatement itself is a greater relief but the workman was granted back wages.

9. Under the above circumstances, the order of the Labour Court is set-aside to the extent of awarding 50% of the back wages. The writ petition is accordingly allowed to that extent. No costs.

**S.Ananda Reddy, J**

Date:16.09.2004
va

To

1 The Presiding Officer, Labour Court-II,
Hyderabad.

2 Two CD Copies

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[1] **1998 LIC 833**